

Comment on Proposed FAA Rule

Docket #: FAA-2002-13378

("Reports by Carriers on Incidents Involving Animals During Air Transport.")

As a group of attorneys committed to improving the welfare and treatment of animals, the Section Council of the Animal Law Section of the State Bar of Michigan would like to thank the Department of Transportation (DOT) and the Federal Aviation Administration (FAA) for this opportunity to submit its comments on the FAA's proposed amendment to 14 CFR part 119. Among the activities we undertake as a state bar section is educating lawmakers on ways to improve existing laws so that they may better protect animals from mistreatment, cruelty and exploitation. We also advocate the vigorous enforcement of current laws drafted specifically to achieve these goals. However, we believe it is equally important to acknowledge those positive developments occurring in proposed (state or federal) legislation or administrative rules which have the potential to significantly effect the welfare of animals. We find the FAA's proposed amendments, which will require, among other things, airlines to file monthly reports on incidents involving the loss or death of, or injury to, an animal, and the Secretary of Transportation's charge to make such information available to the public, to be such a development. We therefore join those other animal advocates and organizations urging prompt action to finalize the FAA rule. While we believe the drafting of the proposed rule is unquestionably an encouraging development for animal passengers, we also think that there is room for improvement in its current provisions. In our opinion, implementing just a few small amendments will ensure that the final FAA rule is safe and acceptable to all affected parties, including the subject animals themselves.

As a preliminary matter, we have no reason to believe the agency is unaware of the obvious: that an animal is not, and therefore should never be treated as, mere "cargo" or "baggage." Of course, this perspective applies to any means of transportation, not merely air-transport. Therefore, we strongly urge the FAA to encourage the airlines to immediately and proactively devise solutions for the causes of past incidents which have resulted in the loss or death of, or injury to, an animal passenger. Such remedial actions will serve to preemptively avoid, or at a minimum significantly reduce, the number of future incidents requiring a report to be filed with an airline. On the other hand, we have every reason to suspect that many employees of the FAA, as well as those of the airlines, are responsible pet-owners themselves and therefore wish to see animal passengers reach their destinations safely and without being subjected to trauma. To this end, we suggest the hiring of a consultant who is qualified to provide expert guidance regarding the identification and maintenance of acceptable noise and temperature parameters in the environments of all animals being air-transported. Additionally, since many past complaints by air passengers concerned instances of rough or otherwise unacceptable handling by airline employees of kenneled or caged animals, we also recommend the FAA institute a mandatory training program for all air carrier employees whose responsibilities could involve or do explicitly include the handling of animal passengers. Such a program would provide yet another safeguard against incidents involving harm to or loss of animals.

We presume the FAA is also aware that all animals, regardless of species, are sentient beings capable of pain and psychological trauma.

We would therefore expect the agency to ensure that its final rule encompass all vertebrate animals, regardless of whether they are family pets; animals destined for zoos, sanctuaries, pet stores or research laboratories; animals being sold, adopted, or provided temporary foster care; or animals with destinations outside the United States.

A matter of equal importance is the quality of treatment and care animals receive once their custody and control has been turned over to a specific airline. We believe that once an airline has accepted an animal into its custody, the only humane, acceptable policy that should be pursued from that point on, is one in which the airline ensures that animal receive the requisite level of care appropriate to its species, until its custody is relinquished to the animal's designated owner (or guardian) at its point of destination. Moreover, the measures undertaken by airlines must include specific provisions to guarantee the air travel experience of animal passengers be comfortable, safe, and environmentally adequate. It is our opinion that if, for whatever reason, an air carrier cannot guarantee minimally acceptable standards of handling and care for a specific animal, then it must explicitly inform -- well in advance of boarding -- the owner(s) and/or guardian(s) of the animal that the animal will not be permitted to board the carrier. Such preventative measures will allow animal owners and guardians to timely seek and arrange safe transportation alternatives for the animal at issue.

Finally, in our estimation, it is reasonably foreseeable that an owner or guardian of an animal that has been lost, killed or injured as a result of an air travel incident, will also desire the name of the air carrier's employee or employees responsible for the incident, and further, will want to learn the nature of internal sanction(s), if any, by the air carrier that responsible employee(s) faces. We encourage the Secretary of Transportation, in turn, to publish all pertinent data surrounding such incidents so that consumers may make an informed choice regarding whether to attempt to place an animal(s) in a given air carrier's custody. This information should be published in a user-friendly format so as to be easily accessible by the general public. As the number of informed and responsible pet owners and animal enthusiasts grows nationally, we expect the number of individuals interested in this data to increase accordingly. In fact, we envision a substantial percentage of "choice-of-air carrier" decisions and long-term customer patronage being closely linked to an air carrier's public record of incidents involving animals.

In closing, we urge the agency to pay close attention to those comments submitted by the Animal Legal Defense Fund and in particular, the various chapters of the American Society for the Prevention of Cruelty to Animals. We believe by heeding their wisdom and expertise, the FAA will publish a final rule that reflects both sound and humane animal transport and care practices. Once again, we thank you in advance for your time and efforts in this very important matter.

Sincerely,

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Animal Law Section,
State Bar of Michigan